



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,283	01/22/2001	Gary D. Glick	128019-203802	2710

7590 04/11/2006
Medlen & Carroll, LLP
David A. Casimir Esq
101 Howard Street
Suite 350
San Francisco, CA 94105

EXAMINER

KIM, VICKIE Y

ART UNIT	PAPER NUMBER
----------	--------------

1618

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

09/767283

~~Glick et al~~

Glick et al

UM-09269

1/22/2001

EXAMINER

V. Kim

ART UNIT

PAPER

1618

20060403

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Treatment of Claims Held to Be Drawn to Nonelected Inventions, including claims to nonelected species, are treated as indicated in MPEP § 821.01 through § 821.03.

Newly submitted claims 130-133 and 138-140 are now amended to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original claims are drawn to a pharmaceutical product not a compound which is patentably independent invention from the composition. The originally claimed compound(class 540/subclass505) is classified differently than composition(514/221), and furthermore, the search for entire invention in patent system and non-patent literatures is burdensome because prior art of one invention may not anticipate other invention, see US4033947, US 5580574. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims130-133 and 138-140 are objected and should be withdrawn from the consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

If applicant wishes to pursue independent invention from the invention previous elected and examined, applicant must file divisional or CIP to request for the examine such invention.

APPLICANT is given one month, or thirty(30)days, whichever is longer, from the mail date of this notice to supply the correction.

VICKIE KIM
PRIMARY EXAMINER

Vickie Kim
Primary Examiner
Art Unit: 1618